

REMARKS

This amendment is responsive to the Office Action¹ mailed on September 7, 2005. Claims 1-48 are pending. Claims, 1, 5, 9, 15, 17, 25, 29, 33, 39, and 41 are independent claims. Claims 9-24 and 33-48 are withdrawn from consideration. Claims 1-8 and 25-32 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,466,937 to Fascenda, (hereinafter "Fascenda"). Claims 25 and 29 are amended. The specification is amended to correct an obvious error. No new matter is added. The rejection is respectfully traversed because the reference does not disclose or suggest all limitations of all claims.

For example, consider Applicant's independent claim 1 which recites, *inter alia*:

"said at least one client ensuring that any pre-existing said server database template objects and any of said plurality of template objects which are identically-named contain identical object data". (emphasis added)

This claim limitation is not disclosed or suggested in Fascenda. The Office Action, page 3, cites column 11, lines 1-21 of Fascenda directly against this claim limitation. This section of Fascenda actually says:

As new services, features and options are added to the system of the present invention, new templates are stored in server template database 330 and/or existing stored templates are updated, to reflect the additions. Therefore, at any given time, it is possible a client device 108 includes an old version of a template, that is, an out-of-date template that requires updating. When server 114 receives information request message 316 from client

¹ The Office Action may contain a number of statements characterizing the cited reference and/or the claims which Applicant may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicant does not automatically subscribe to, or acquiesce in, any such statement. Further, silence with regard to rejection of a dependent claim, when such claim depends, directly or indirectly, from an independent claim which Applicant deems allowable for reasons provided herein, is not acquiescence to such rejection of that dependent claim, but is recognition by Applicant that such previously lodged rejection is moot based on remarks and/or amendments presented herein relative to that independent claim.

device 108, **server 114 determines** whether the template (at client device 108) associated with the request message is the most current template (for example, an updated template). If the template is an old version, **server 114 retrieves** the most current template from server template database 330, **and then transmits** an appropriate template update, along with the requested information, to client device 108 using response message 318. In this manner, **server 114 distributes** the most current template versions to client devices 108 on a per access and an as needed basis. Thus, **server 114 efficiently distributes** template updates to client devices 108 to render new service features and options available to the users, and maintain configuration control over the clients. (Fascenda, col. 11, lines 1-21, emphasis added)

It is clear from the above-quoted passage that server 114 (shown in Fascenda, at least Figs. 1A, 1B, 3) is in control of dealing with whether or not a template (at client device 108) associated with a request message from the client and received by the server is the most current template. If an old version, and not the current version in the server's template database, the server does all of the work to update and synchronize the templates in the network. Indeed, as quoted above, the server determines if the template is the most current, the server retrieves the most current template if needed, the server transmits the update to the client, and the server distributes the most current templates to the client and maintains configuration control over the clients. As shown in Fig. 1B of Fascenda, server(s) 114 can be multiple, distributed servers in Fascenda's network which means that each one of these servers takes control in this manner with respect to its server template database 330 (Fig. 3).

In accordance with the architecture of Fascenda, each of its servers takes the lead in updating and synchronizing its templates in the network, because the most recent templates for a server are stored in that server's database. For example, in column 10, lines 62-64 of Fascenda, it says: "Server template database 330 includes the latest or most current versions of all of the available templates in the system of the present invention." This statement plainly teaches that Fascenda's design and operation is opposite to that

which is disclosed and claimed by Applicants. Fascenda's most current templates are stored in its distributed servers' databases but, quite differently, Applicants' most current templates are stored in the client (head-end) workstation database (*See specification, page 15, line 20 - page 16, line 14 and Fig. 3, blocks 304 and 305*).

As a result of this opposite design, in Applicants' case the client is in charge of comparing templates and resolving conflict there-between, if any. Indeed, with reference to, at least, Applicants' flowcharts of Figs. 5 and 6 and discussion related thereto, it is clear that the client retrieves a template from its server's database (step 501), and the client compares the retrieved template's name (step 502) with names in the client database, and the client compares the retrieved template's contents (step 503), etc. If there is a conflict, then in step 508 (Fig. 6) the user is prompted to resolve the conflict at the user interface (step 601) which is at the client head-end station. Clearly, Applicants' user activity at a client head-end station or user interface to resolve template ambiguity has nothing to do with Fascenda's distributed servers in the network updating server-database-stored templates.

The language of claim 1 clearly defines-around the teachings of Fascenda. Indeed, Fascenda does not disclose or suggest: "said at least one client ensuring that any pre-existing said server database template objects and any of said plurality of template objects which are identically-named contain identical object data" as recited in claim 1, emphasis added. In Fascenda, similar ensuring, if any, is performed by its servers, not its client.

MPEP § 2131 states that to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth

in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ...claim.” See *Richardson v. Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). In this instance, the reference does not teach every element of claim 1 because it does not teach at least “said at least one client ensuring that any pre-existing said server database template objects and any of said plurality of template objects which are identically-named contain identical object data” as recited in claim 1. Therefore, the 35 U.S.C § 102(e) rejection of claim 1 should be withdrawn and the claim allowed.

Original independent claim 5 also recites, *inter alia*: “said at least one client ensuring that any pre-existing said server database template objects and any of said plurality of template objects which are identically-named contain identical object data.” The same section of *Fascenda* was cited against this limitation of claim 5. Therefore, for the same reasoning as given above, the 35 U.S.C § 102(e) rejection of claim 5 should be withdrawn and the claim allowed.

Currently amended independent claim 25 recites, *inter alia*: “said client including means for ensuring that any pre-existing said server database template objects and any of said plurality of template objects which are identically-named contain identical object data.” The same section of *Fascenda* was cited against this limitation of claim 25. Therefore, for the same reasoning as given above, the 35 U.S.C § 102(e) rejection of claim 25 should be withdrawn and the claim allowed.

Currently amended independent claim 29 recites, *inter alia*: “programmable code, executed by said client, for ensuring that any pre-existing said server database template objects and any of said plurality of template objects which are identically-named contain identical object data.” The same section of Fascenda was cited against this limitation of claim 29. Therefore, for the same reasoning as given above, the 35 U.S.C § 102(e) rejection of claim 29 should be withdrawn and the claim allowed.

Dependent claims 2, 6, 26 and 30 are rejected under 35 U.S.C § 102(e) and the Examiner again points to the same column 11, lines 1-21 passage in Fascenda quoted above and also to column 17, lines 21-38 in Fascenda. To begin with, these dependent claims are clearly allowable at least for the reason that they are each dependent from an allowable base claim, where claim 2 is dependent from allowable claim 1, claim 6 is dependent from allowable claim 5, claim 26 is dependent from allowable claim 25 and claim 30 is dependent from allowable claim 29. In addition, column 11, lines 1-21 in Fascenda was addressed above and shown to be irrelevant, and column 17, lines 21-38 in Fascenda, which describes Fascenda’s Fig. 11 flowchart depicting steps of its server operation, merely reinforces Applicants’ argument presented above:

In a step 1110, server 114 determines whether client 108 has the most current template. To make this determination, server 114 compares template version identifier 906 of the template named in information request message 900 against the version identifier for the same named template just retrieved from server template database 330 (e.g., in column 756 of table 750 of FIG. 7B) at step 1106.

If server 114 determines that the identified client device 108 does not have the latest version of the appropriate template (i.e., the answer to step 1110 is NO), then client device 108 has an "old" template that requires updating with a "new" template, namely, the template just retrieved from server template database 330. Accordingly, at a step 1112, server 114 composes an information response message including:

- a) information retrieved from information store 334 at step 1108; and
- b) template update information from the "new" template.

(Fascenda, column 17, lines 21-28, Emphasis Added.)

Clearly, as quoted above, server 114 determines the most current template, server 114 compares template version identifiers and server 114 composes an information response message, etc. Once again server 114 does all of the work in maintaining the templates current in Fascenda, as it did in the earlier quoted section of Fascenda. Therefore, these two sections taken together do not disclose or suggest any of the subject matter of claims 2, 6, 26 and 30 against which they are juxtaposed in the Office Action, page 3. Claims 2, 6, 26 and 30 recite either “said ensuring”, “said means for ensuring” or “said programmable code for ensuring” where, in each instance, “ensuring” is recited in each of these claims’ independent base claim as being provided by the client and not by the server as it may be performed in Fascenda. Therefore, these claims avoid Fascenda for these additional reasons, in addition to being dependent from allowable base claims.

The other dependent claims 3, 4, 7, 8, 27, 28, 31, 32 are also rejected on the above same two passages in Fascenda, and they are also allowable for all of the reasons given above.

CONCLUSION

In view of the above amendments and arguments, the rejection of claims 1-8 and 25-32 under 35 U.S.C § 102(e) should be withdrawn.

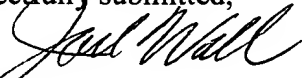
To the extent that the above-discussed, or other, Office Action citations of Fascenda were applied against particular independent and dependent claim elements but not expressly rebutted herein, it is to be understood that Applicants do not acquiesce thereto. Rather, Applicants believe that responses to application of such citations are moot in view of the foregoing arguments and provisions of MPEP § 2131 denying anticipation of a claim upon the showing that one element of that claim isn't taught in the reference. That showing has clearly been made herein with respect to all of the claims. Claims 1-8 and 25-32 are therefore deemed allowable over the cited reference.

Applicants note that the conception date and reduction to practice date of the invention claimed in the instant application pre-date the effective date of the reference. If the Examiner does not find the instant response persuasive, Applicants hereby reserve their rights to seasonably present those dates in a declaration filed under 37 C.F.R. § 131 in response to the next office action, if any, rejecting any or all of the pending claims.

To the extent that an extension of time may be needed in order to enter this amendment in this case, please consider this response as including a petition under 37 C.F.R. § 1.136 for such extension of time. Please charge any fee for such petition or any other fee or cost that may be incurred by way of this amendment to Patent Office deposit account number 05-0889. If the Examiner feels that a telephone conversation may serve

to advance the prosecution of this application, she is invited to telephone Applicants' undersigned representative at the telephone number provided below.

Respectfully submitted,



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